

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
AND AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

Declaration on a Human Rights-Based Approach to Natural Resources Management

Adopted in preparation to the Rio+20 Summit

March 2012

Declaration on a Human Rights-Based Approach to Natural Resources Governance

Stressing the interdependence between human and economic development as well as the integral nature of the Earth, our home,

Recalling the 1969 American Convention on Human Rights, especially Article 21 on the right to property as interpreted by the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights,

Recalling the 1981 African Charter of Human and People's Rights as authoritatively interpreted by the 2011 Tunis Reporting Guidelines and the 2010 Nairobi Implementation Guidelines on Economic, Social and Cultural Rights, in particular Articles 20, 21 and 24 of the Charter protecting the rights of peoples to pursue their social and economic development in terms of policies they have freely chosen; to freely dispose of their natural resources in the exclusive interest of the people; and to a generally satisfactory environment;

Recalling Principle 2 of the 1992 Rio Declaration on Environment and Development establishing State sovereignty over natural resources, read with Principle 1 providing that "human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature" and Principle 22 providing that "local communities have a vital role in environmental management and development and, as a result, their identity, culture and interests must be protected";

Noting that there has recently been rapid progress in the definition of minimum international standards with respect to natural resources required to maintain life itself. Noting in particular the recent recognition of the human right to food and the human right to water and sanitation, implying that natural resources governance must be operated in such a way as to respect these rights, and fight the fast depletion of water resources in Africa and America due to – priority given to inappropriate resource mining, excavation of water sources, and inadequately vetted commercial or industrial interest in land investment and development;

Observing that current natural resources governance is gravely hampered by ill-planned development, misappropriation of land, corruption, bad governance, misaligned budget priorities, lack of strong institutional reforms, weak policies coupled with continued denial of civil and political rights and prevailing insecurities, including military interventions in extractive areas;

Mindful of the disproportionate impact of human rights abuses upon the rural communities in Africa and America that continue to struggle to assert their customary rights of access and control of various resources, including land, minerals, forestry and fishing;

Working towards a reaffirmation at the Rio+20 Summit in 2012 that natural resources governance and international agreements must respect international human rights law and international law and standards to combat corruption, and protect the integrity of the global environmental and developmental system,

The Inter-American Commission on Human Rights and the African Commission on Human and People's Rights reaffirm that:

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- In accordance with the principle of State sovereignty over natural resources established in the Rio Declaration, the State has the main responsibility for ensuring natural resources stewardship *with, and for the interest of*, the population and must fulfill its mission in conformity with international human rights law and standards;
- All necessary measures must be taken by the State to ensure participation, including the free, prior and informed consent of communities, in decision making related to natural resources governance;
- States should place natural resources governance under transparency, including through open budgeting and certification processes and protection of the freedoms of the press, information and expression. The right of access to information and to documents generated by the government, or to which the government is a party, that are necessary for citizens to understand the extent and value of their natural resources and the payments for those resources received and disbursed by their governments, in order to bring their legislation in line with Article 1 of the African Charter and Article 1 of the American Convention must be ensured;
- States should vigorously fight corruption at all levels of decision making by strengthening and enforcing criminalization of corruption, decisively ending impunity and ensuring asset recovery and repatriation for illicitly expatriated capital;
- States should boldly ensure that natural resources governance does not undermine the full enjoyment of basic human rights, respect of the rule of law and the principles of equality and non discrimination as stated in the American Convention and the African Charter as completed by the Tunis and Nairobi Guidelines, in particular the right to health, the right to property, the right to work, the right to culture, the right to housing, the right to food and the right to water and sanitation in addition to civil and political rights necessary to assert all other such rights and that communities are protected from forced evictions;
- States should ensure respect for human rights in all matters of natural resources exploration, extraction, development, management and governance, in international cooperation, investment agreements and trade regulation;
- An enabling framework to a sustainable development conducive to the realization of human rights requires international mechanisms:
 - to review existing mining legislations and standards, such as the 2009 ECOWAS Directive on mining, and monitoring processes, and monitor their implementation at the country level;
 - to ensure that human rights impact assessments are operated that look in particular at free prior informed consent; effective remedies; fair compensation; women and indigenous and customary people's rights; environmental impact assessments; including impact on livelihoods, and ensuring public participation; protection of the individuals in the informal sector; and economic, cultural and social rights; and
 - to strengthen regional efforts and develop guidelines for each region, that respect human rights of all and require transparent, maximum and effective community participation in a) decision-making about, b) prioritisation and scale of, and c) benefits from any development on their land or other resources. or that affects them in any substantial way.